

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-1285

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

To be argued by  
DAVID GOTTLIEB

UNITED STATES OF AMERICA,

Appellee,

-against-

MICHAEL JOURNET

Defendant-Appellant,

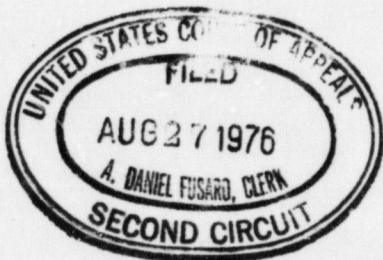
*B P/S*  
Docket No. 76-1285

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## APPENDIX FOR APPELLANT JOURNET

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ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.  
THE LEGAL AID SOCIETY,  
Attorney for Appellant  
MICHAEL JOURNET  
FEDERAL DEFENDER SERVICES UNIT  
509 United States Court House  
Foley Square  
New York, New York 10007  
(212) 732-2971

DAVID GOTTLIEB  
JONATHAN J. SILBERMANN

of Counsel

PAGINATION AS IN ORIGINAL COPY



U.S. DISTRICT COURT - CRIMINAL DOCKET

Felony ☒ JUDGE/MAGISTRATE Assigned Trial  
Offense ☐ MAGISTRATE 0718  
Minor ☐ 207 1 Disp./Sentence  
District Office

U. S. vs.

75 CR 849

JOURNET, MICHAEL

1  
defendant

Case Filed  
Day Mo. 11 11  
No. of 4  
Defendants

Yr. Docket No. Def.  
75 849 1

ARGES

21-841(a)(1)  
846

Did conspire to distribute cocaine  
and to conceal existence of the  
conspiracy etc.

2

18-2

KEYS

Clayman

MAGR. 1  
CASE NO. 75 M  
BAIL & RELEASE  
☐ Personal Recog.  
☐ Denied ☐ Unsecured Bond  
AMT Conditional Release  
Set (000) ☐ 10% Depo  
\$ 10 ☒ Surety Bond  
date ☐ Collateral  
☐ Bail Not ☐ 3rd Party  
Made ☐ Custody  
☒ Bail Status ☐ PSA  
Changed  
(See Docket)

ARREST

INDICTMENT ☒

ARRAIGNMENT

TRIAL

SENTENCE

11/10/75  
U.S. Custody  
Reason on Above  
Charges

☐ High Risk  
Defn. &  
Date Design'd

11-11-75

Waived ☐

Superseding  
☒ Indict/Info ☐

☐ Prosecution Deferred

Trial Set For  
4/5/76

☐ Not Guilty  
☐ Nolo  
☒ Guilty  
☐ Not Guilty  
☐ Nolo  
☒ Guilty

Voir Dire ☐

Trial Began ☐

Trial Ended ☐

Disposition

☐ Convicted ☐ On All Charge  
☐ Acquitted ☐ On Lesser  
Offenses  
☐ Dismissed ☐ WOP; ☐ WOP  
☐ Nolle/Discontinued\*

Search  
Warrant

Issued

DATE

INITIAL/No.

INITIAL  
APPEARANCE

INITIAL/No.

OUTCOME

Return

PRELIMINARY  
EXAMINATION  
OR REMOVAL  
HEARING

Date  
Scheduled 11/21/75  
Date  
Held

☐ Dismissed  
☐ Held for  
District GJ

☐ Exonerated  
☒ To Transferee  
District

Summons

Issued

Served

☐ Waived

☐ Not Waived

☒ Intervening  
Indictment

☒ Held to Answer to U. S. District Court  
AT: ED NY

Arrest Warrant

10/28/75 MS/070B

COMPLAINT

10/28/75 MS/070B

Tape No.

INITIAL/No.  
MS 070B

Magistrate's Initials MS 070B

OFFENSE  
(In Complaint)

Combine, conspire and confederate to the possession and distribu-  
tion of cocaine. T-21 USC Section 846.

\* Show last names and suffix numbers of other defendants on same indictment/information

V. Excludable Delay

DATE

PROCEEDINGS

(a) (b) (c) (d)

10/28/75

AUSA - C. Clayman.

11/10/75

Deft. arraigned. D.C. deft. will get own. Bail set \$10,000

11-11-75

Indictment filed

11-21-75

Surety. As per AUSA Clayman's Office - Deft Indicted - See 75CR849

11-18-75

Before COSTANTINO J - case called - deft present with  
counsel - court to assign counsel for deft - court enters  
plea of not guilty on behalf of deft - bail contd - case  
adjd to 11-20-76 for pleading; adjd to 12-19-75 for trial.

11-25-75

Before COSTANTINO J - case called - deft & counsel E. Kelly  
present - bail reduced to \$3000 surety or \$3000 cash - case  
set for status report on Dec. 8, 1975.

11-26-75

By CATOGGIO, Magistrate - Copy of Order for acceptance of  
cash bail filed.

12-2-75

Before JUDD, J - Superseding Indictment filed.

12/8/75

Before COSTANTINO, J. - Case called - deft and counsel present  
case adjd to 12/12/75 at 10:00 A.M. for status report

12/12/75

Before COSTANTINO, J. - Case called - deft and counsel present  
case adjd to 4/5/76 for trial

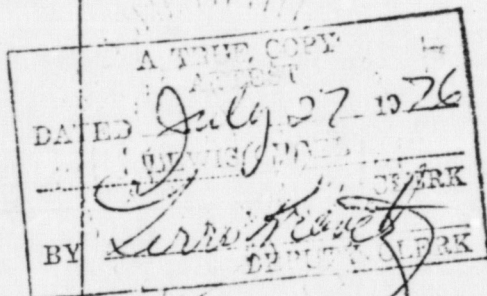
1/9/76

Notice of readiness for trial filed

4-5-76

Before OOSTANTINO J - case called deft & atty present -  
deft arraigned and after being advised of his rights with-  
draws plea of not guilty and enters a plea of guilty to

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
6-4-76	count 2 - sentence adjd without date - bail contd. Before COSTANTINO J - case called - deft & counsel E. Kelly present - deft sentenced to imprisonment for a term of 8 years plus special parole term of 7 years. On motion of AUSA Clayman count 1 is dismissed and the underlying indictment is dismissed.				
6-4-76	Judgment and commitment filed - certified copies to Marshal				
6-9-76	Judgment & commitment ret'd and filed - deft. del to MCC, NY/				
6-9-76	By COSTANTINO J - Order filed releasing bail.				
6/11/76	Notice of appeal filed				
6/11/76	Docket entries and duplicate of notice of appeal mailed to court of appeals				
6-15-76	2 stenographers transcripts filed (one dated 4-5-76 and one dated 6-4-76)				
6-21-76	Stenographers transcript filed dated June 4, 1976				
7-6-76	Copy of order received from C of A that record on appeal be docketed by 7-28-76 filed.				
7-13-76	Notice of motion filed for an order releasing deft on his own recognizance or minimal bail pending a determination of his appeal.				
7-27-76	Record on appeal certified and <del>handed</del> mailed to the court of appeals.				





FILED  
U.S. DISTRICT COURT, N.Y.  
NOV 11 1975

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

RECEIVED  
FBI

UNITED STATES OF AMERICA

- against -

MICHAEL JOURNET,  
SALVATORE RUSSO and  
JOHN DOE,

Cr. No.  
(T. 21, U.S.C. §841(a)(1),  
§846; and T. 18, U.S.C.  
§2)

Defendants.

----- X

75 CR 849

THE GRAND JURY CHARGES:

COUNT ONE

On or about and between the 21st day of May 1975 and the 29th day of May 1975, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants MICHAEL JOURNET, SALVATORE RUSSO, JOHN DOE and others known and unknown to the grand jury did knowingly and intentionally combine, conspire, confederate and agree to violate Section 841(a)(1) of Title 21, United States Code.

1. It was part of said conspiracy that the defendants knowingly and intentionally would distribute quantities of cocaine, a Schedule II narcotic drug controlled substance.

2. It was further a part of said conspiracy that the defendants and others would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities. (Title 21, United States Code, Section 846).

COUNT TWO

On or about the 29th day of June 1975, within the Eastern District of New York the defendants MICHAEL JOURNET,

- 2 -

SALVATORE RUSSO and JOHN DOE, did knowingly and intentionally distribute approximately one-half (1/2) ounce of cocaine, a Schedule II narcotic drug controlled substance. (Title 21, United States Code, §841(a)(1); Title 18, United States Code, §2).

A TRUE BILL.

William E. Byrne  
FOREMAN

David L. Fagan  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK



1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 UNITED STATES OF AMERICA, :  
6 :  
7 -against- :  
8 :  
9 MICHAEL JOURNET and :  
10 JOHN DOE, :  
11 :  
12 Defendants. :  
13 -----X

75-CR-849

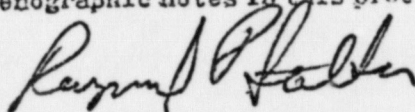
11 United States Courthouse  
12 Brooklyn, New York

13 April 5, 1976  
14 10:00 o'clock A.M.

15 B e f o r e :

16 HONORABLE MARK A. COSTANTINO, U.S.D.J.  
17

18 I hereby certify that the foregoing is  
19 a true and accurate transcript from my  
20 stenographic notes in this proceeding.

21 

22 Official Court Reporter  
23 U. S. District Court

24 JOSEPH BARBELLA  
25 OFFICIAL COURT REPORTER

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Appearances:

DAVID G. TRAGER, ESQ.  
United States Attorney  
for the Eastern District of New York

BY: CHARLES CLAYMAN, ESQ.  
Assistant U.S. Attorney

LEGAL AID SOCIETY  
Attorney for Defendant

BY: EDWARD KELLY, ESQ.  
Of Counsel



1  
2 THE CLERK: United States of America v.  
3 Michael Journet.

4 MR. KELLY: Judge, this is the defendant,  
5 Michael Journet. He will withdraw his not guilty plea  
6 that was previously entered to this indictment and he  
7 now offers to plead guilty to count 2 of the indictment.  
8 The understanding was when he is sentenced on count 2,  
9 count 1 will be dismissed.

10 THE COURT: All right.

11 How old are you?

12 THE DEFENDANT: 28.

13 THE COURT: 28.

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Now, is he going to  
16 plead to count 1?

17 MR. KELLY: Count 2.

18 THE COURT: Count 2.

19 MR. KELLY: Yes.

20 THE COURT: All right.

21 Mr. Journet, you heard your lawyer state to  
22 the Court that you are withdrawing your plea of not  
23 guilty and pleading guilty to count 2 of the indictment?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You heard him say that.

1 THE DEFENDANT: Yes.

2 THE COURT: Do you plead guilty to count 2 of  
3 this indictment?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you know that by pleading guilty,  
6 that you are pleading to a felony, which is a major  
7 crime? Do you know that, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: That is, as opposed to a  
10 misdemeanor, which means a felony, and you can be sent  
11 away for more than one year? And a misdemeanor would  
12 be less than one year?

13 THE DEFENDANT: Yes.

14 THE COURT: Well, in order for the Court to  
15 accept a plea of guilty, you must waive certain  
16 constitutional rights. And the first of which is the  
17 right to a jury trial.

18 Now, a jury trial, of course, places people in  
19 the box there and they hear the case and then they  
20 would make a determination as to whether or not you are  
21 guilty or innocent after hearing the entire case.  
22 Do you waive that right?

23 THE DEFENDANT: Yes.

24 THE COURT: The second right is the right of  
25 confrontation of witnesses. And that means that the



1 people who know about what they say you have done wrong  
2 would come to court and testify. And then your lawyer  
3 would have a right to cross-examine them to determine  
4 whether or not they are being truthful in what they say  
5 you have done.

6 Do you waive that?

7 THE DEFENDANT: Yes.

8 THE COURT: All right, you are pleading guilty  
9 to count 2. Now, you can't be guilty and innocent.  
10 Therefore, you are waiving a right under the law as to  
11 a presumption of innocence. That means that no longer  
12 you can be presumed innocent, but you are guilty of  
13 count 2 of this indictment; is that right, sir?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You know you are waiving that right?

16 THE DEFENDANT: Yes.

17 THE COURT: Of being innocent.

18 THE DEFENDANT: Yes.

19 THE COURT: Now, in order for the Court to  
20 accept your plea of guilty you must advise the Court as  
21 to whether or not there have been any other promises  
22 made to you other than the promise of dismissing  
23 count 1 of this indictment until the day of sentence?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Is that the only promise that was

1           made to you?

2           THE DEFENDANT: Yes.

3           THE COURT: You understand, of course, that the  
4           nature of that promise ran from your lawyer and the  
5           Government's lawyer, and that the Court itself has  
6           nothing to do with it?

7           THE DEFENDANT: Yes.

8           THE COURT: You also understand that the Court  
9           does not -- will not and makes no promises to you in  
10          any way whatsoever in accepting your plea of guilty?

11          THE DEFENDANT: Yes.

12          THE COURT: You also understand that the only  
13          promise the Court will make to you is that it will  
14          exercise discretion in your behalf, being fair and just  
15          under the circumstances. Do you understand that?

16          THE DEFENDANT: Yes.

17          THE COURT: Now, likewise, has anyone forced  
18          you in any way to plead guilty to this count 1 in the  
19          indictment?

20          THE DEFENDANT: No.

21          THE COURT: Count 2, rather.

22          You know what I mean by "forced"? Did someone  
23          walk up to you, your lawyer or anybody, and say, "You'd  
24          better plead guilty or else you might get fifteen years,"  
25          or make any kind of statement to you? Did anybody do



1 that to you?

2 THE DEFENDANT: No.

3 THE COURT: Are you sure of that now?

4 THE DEFENDANT: Yes.

5 THE COURT: Anyone cause you any duress? That  
6 means, again, try to influence you so that you would not  
7 stand trial and you would plead guilty?

8 THE DEFENDANT: No.

9 THE COURT: For any reason whatsoever?

10 THE DEFENDANT: No.

11 THE COURT: Now, tell me in your own words what  
12 you say that you have done wrong in reference to this  
13 count 2 of this indictment.

14 THE DEFENDANT: Johnny Moustache came to the  
15 boutique on Court St. where I gave him some small  
16 amount of cocaine.

17 MR. CLAYMAN: Johnny Moustache is an individual  
18 who is an undercover agent.

19 THE COURT: All right. That small amount, how  
20 much was that?

21 THE WITNESS: Half-ounce.

22 THE COURT: Half-ounce. At the time that you  
23 gave him, or whatever you did with the cocaine, did  
24 you intend, No. 1, to give it to him to distribute?  
25 Did you intend to do that?

1 THE DEFENDANT: Yes.

2 THE COURT: Did you knowingly distribute it to  
3 this agent?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you know by doing that, that  
6 you would be in violation of law?

7 THE DEFENDANT: Yes.

8 THE COURT: You knew it was wrong to do it?

9 THE DEFENDANT: yes.

10 THE COURT: As a matter of fact, you know now  
11 that it was wrong because you have been charged with  
12 a violation of law; is that right, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Did you know at the time,  
15 in any event, that the substance that you were  
16 distributing was a controlled substance under the law?  
17 In other words, it is known as an illegal drug?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Now, do you remember  
20 about when you distributed the cocaine? The date of  
21 the indictment would be about right, the 29th day of  
22 June, 1975?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you remember what time of the day  
25 it was?



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THE DEFENDANT: Afternoon some time.

THE COURT: Where did you say it took place?

THE DEFENDANT: Court St., Brooklyn.

THE COURT: Where?

THE DEFENDANT: Court St. in Brooklyn.

THE COURT: Court St. in Brooklyn.

All right. Now, is there anything else to tell me about this?

THE DEFENDANT: No, sir.

THE COURT: Now, do you still wish to plead guilty?

THE DEFENDANT: Yes.

THE COURT: Do you understand everything we have spoken about so far? Anything in your mind which you doubt what I have said about your -- what your rights are?

THE DEFENDANT: No, sir.

THE COURT: I now advise you that under the section that you have pleaded guilty to, which is Section 841(a)(1) of the United States Code, that the maximum penalty is fifteen years and/or \$25,000 fine, with a minimum of three years special parole term. You can receive all three of those. And the Court must impose upon you on the date of sentence a minimum of three years special parole term if you receive a jail

1 sentence. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, special parole term means that  
4 if the event you should get involved in another matter  
5 or similar matter, that you could go to jail for the  
6 additional time with which this Court has assessed you  
7 to a special parole term. You understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Is there anything you don't under-  
10 stand about the sentence?

11 THE DEFENDANT: No.

12 THE COURT: Now, the Court tells you at this  
13 time that on the day of sentence you will have a right  
14 to advise the Court as to what you believe are  
15 mitigating circumstances in your behalf as to what  
16 sentence this Court will sentence you to, to be fair  
17 and just under the circumstances, including probation.  
18 Do you understand you can tell the Court -- and I am  
19 telling you now, you have those rights, Mr. Journet.  
20 All right?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Also, your lawyer will  
23 have on the day of sentence -- he will advise the  
24 Court as to what he believes the Court should do as to  
25 a just and fair sentence under your case.



1 All right. Are there any questions?

2 THE DEFENDANT: No.

3 THE COURT: Anything you would like to ask the  
4 Court at this time?

5 THE DEFENDANT: No.

6 THE COURT: You understand what I have spoken  
7 about?

8 THE DEFENDANT: Yes.

9 THE COURT: You wish to still plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right, plea is accepted.

12 MR. KELLY: Thank you.

13 MR. CLAYMAN: No objection to bail, \$10,000  
14 bond being continued.

15 THE COURT: All right, continued.

16 MR. KELLY: Thank you, Judge.

17 THE COURT: Also, you understand you must go  
18 before Probation, Mr. Journet?

19 MR. KELLY: Yes.

20  
21 \* \* \*  
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1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 UNITED STATES OF AMERICA, :

6 -against- :

75-CR-849

7 MICHAEL JOURNET and  
8 JOHN DOE, :

9 Defendants. :  
10 -----X

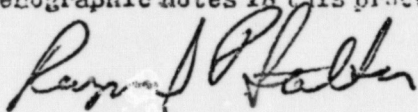
11 United States Courthouse  
12 Brooklyn, New York

13 April 5, 1976  
14 10:00 o'clock A.M.

15 B e f o r e :

16 HONORABLE MARK A. COSTANTINO, U.S.D.J.  
17

18 I hereby certify that the foregoing is  
19 a true and accurate transcript from my  
20 stenographic notes in this proceeding.

21 

22 Official Court Reporter  
23 U. S. District Court

24 JOSEPH BARBELLA  
25 OFFICIAL COURT REPORTER



Appearances:

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United States Attorney  
for the Eastern District of New York

BY: CHARLES CLAYMAN, ESQ.  
Assistant U.S. Attorney

LEGAL AID SOCIETY  
Attorney for Defendant

BY: EDWARD KELLY, ESQ.  
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8 The understanding was when he is sentenced on count 2,  
9 count 1 will be dismissed.

10 THE COURT: All right.

11 How old are you?

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13 THE COURT: 28.

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Now, is he going to  
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17 MR. KELLY: Count 2.

18 THE COURT: Count 2.

19 MR. KELLY: Yes.

20 THE COURT: All right.

21 Mr. Journet, you heard your lawyer state to  
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24 THE DEFENDANT: Yes, sir.

25 THE COURT: You heard him say that.



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2 THE COURT: Do you plead guilty to count 2 of  
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4 THE DEFENDANT: Yes.

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9 THE COURT: That is, as opposed to a  
10 misdemeanor, which means a felony, and you can be sent  
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17 THE COURT: Of being innocent.

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19 THE COURT: Now, in order for the Court to  
20 accept your plea of guilty you must advise the Court as  
21 to whether or not there have been any other promises  
22 made to you other than the promise of dismissing  
23 count 1 of this indictment: until the day of sentence?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Is that the only promise that was



made to you?

THE DEFENDANT: Yes.

THE COURT: You understand, of course, that the nature of that promise ran from your lawyer and the Government's lawyer, and that the Court itself has nothing to do with it?

THE DEFENDANT: Yes.

THE COURT: You also understand that the Court does not -- will not and makes no promises to you in any way whatsoever in accepting your plea of guilty?

THE DEFENDANT: Yes.

THE COURT: You also understand that the only promise the Court will make to you is that it will exercise discretion in your behalf, being fair and just under the circumstances. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Now, likewise, has anyone forced you in any way to plead guilty to this count 1 in the indictment?

THE DEFENDANT: No.

THE COURT: Count 2, rather.

You know what I mean by "forced"? Did someone walk up to you, your lawyer or anybody, and say, "You'd better plead guilty or else you might get fifteen years," or make any kind of statement to you? Did anybody do

1 that to you?

2 THE DEFENDANT: No.

3 THE COURT: Are you sure of that now?

4 THE DEFENDANT: Yes.

5 THE COURT: Anyone cause you any duress? That  
6 means, again, try to influence you so that you would not  
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17 MR. CLAYMAN: Johnny Moustache is an individual  
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19 THE COURT: All right. That small amount, how  
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22 THE COURT: Half-ounce. At the time that you  
23 gave him, or whatever you did with the cocaine, did  
24 you intend, No. 1, to give it to him to distribute?  
25 Did you intend to do that?



1 THE DEFENDANT: Yes.

2 THE COURT: Did you knowingly distribute it to  
3 this agent?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you know by doing that, that  
6 you would be in violation of law?

7 THE DEFENDANT: Yes.

8 THE COURT: You knew it was wrong to do it?

9 THE DEFENDANT: yes.

10 THE COURT: As a matter of fact, you know now  
11 that it was wrong because you have been charged with  
12 a violation of law; is that right, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Did you know at the time,  
15 in any event, that the substance that you were  
16 distributing was a controlled substance under the law?  
17 In other words, it is known as an illegal drug?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Now, do you remember  
20 about when you distributed the cocaine? The date of  
21 the indictment would be about right, the 29th day of  
22 June, 1975?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you remember what time of the day  
25 it was?

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THE DEFENDANT: Afternoon some time.

THE COURT: Where did you say it took place?

THE DEFENDANT: Court St., Brooklyn.

THE COURT: Where?

THE DEFENDANT: Court St. in Brooklyn.

THE COURT: Court St. in Brooklyn.

All right. Now, is there anything else to tell me about this?

THE DEFENDANT: No, sir.

THE COURT: Now, do you still wish to plead guilty?

THE DEFENDANT: Yes.

THE COURT: Do you understand everything we have spoken about so far? Anything in your mind which you doubt what I have said about your -- what your rights are?

THE DEFENDANT: No, sir.

THE COURT: I now advise you that under the section that you have pleaded guilty to, which is Section 841(a)(1) of the United States Code, that the maximum penalty is fifteen years and/or \$25,000 fine, with a minimum of three years special parole term. You can receive all three of those. And the Court must impose upon you on the date of sentence a minimum of three years special parole term if you receive a jail



1 sentence. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, special parole term means that  
4 if the event you should get involved in another matter  
5 or similar matter, that you could go to jail for the  
6 additional time with which this Court has assessed you  
7 to a special parole term. You understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Is there anything you don't under-  
10 stand about the sentence?

11 THE DEFENDANT: No.

12 THE COURT: Now, the Court tells you at this  
13 time that on the day of sentence you will have a right  
14 to advise the Court as to what you believe are  
15 mitigating circumstances in your behalf as to what  
16 sentence this Court will sentence you to, to be fair  
17 and just under the circumstances, including probation.  
18 Do you understand you can tell the Court -- and I am  
19 telling you now, you have those rights, Mr. Journet.  
20 All right?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Also, your lawyer will  
23 have on the day of sentence -- he will advise the  
24 Court as to what he believes the Court should do as to  
25 a just and fair sentence under your case.

1 All right. Are there any questions?

2 THE DEFENDANT: No.

3 THE COURT: Anything you would like to ask the  
4 Court at this time?

5 THE DEFENDANT: No.

6 THE COURT: You understand what I have spoken  
7 about?

8 THE DEFENDANT: Yes.

9 THE COURT: You wish to still plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right, plea is accepted.

12 MR. KELLY: Thank you.

13 MR. CLAYMAN: No objection to bail, \$10,000  
14 bond being continued.

15 THE COURT: All right, continued.

16 MR. KELLY: Thank you, Judge.

17 THE COURT: Also, you understand you must go  
18 before Probation, Mr. Journet?

19 MR. KELLY: Yes.

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CERTIFICATE OF SERVICE

August 27, 1976

I certify that a copy of this brief and appendix  
has been mailed to the United States Attorney for the  
Eastern District of New York.

Phyllis S. Cohen